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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,587	03/21/2005	Hendricus Antonius Hoogland	294-193 PCT/US	2814
23869	7590	10/01/2007		
HOFFMANN & BARON, LLP 6900 JERICHO TURNPIKE SYOSSET, NY 11791			EXAMINER BATTULA, PRADEEP CHOUDARY	
			ART UNIT 3722	PAPER NUMBER
			MAIL DATE 10/01/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/501,587

**Applicant(s)**HOOGLAND, HENDRICUS  
ANTONIUS**Examiner**

Pradeep C. Battula

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                            |                                                                                         |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

### DETAILED ACTION

This action is in response to the reply filed on July 20, 2007

Furthermore the 112 rejections and Claim objections have been withdrawn after applicant has properly amended the claims

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1 – 5 and 8, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gerriet (U.S. Pub. 2002/0146275) in view of Anderson.

In regards to Claim 1, 8, 9 and 10 Gerriet discloses a file comprising a cover 2 provided with at least a front cover portion 5, a back cover portion 6, a spine 7, hinges [inherent] (Paragraphs 0021 & 0022; Figure 1, Items 2, 5, 6, 7) and plastic coupling means 14 provided on one of the cover portions (Paragraph 0024, Lines 1 – 2; Paragraph 0026; Figure 2, Item 14) or the spine for fastening an arch to the cover (Paragraph 0027), and wherein the coupling means comprise clamping means 28, 26 (Paragraph 0026, Lines 1 – 3; Figure 2, Item 26), with which the arch 30 can be fixed to the cover (Paragraphs 0024 – 0027), said clamping means including a flange (outward edges on each end of 28; and portions where 20 meets 26) spaced from one of the cover portions and/or the spine [vertically spaced] and a recess 28 formed in said flange (Paragraph 0028, Lines 6 – 10); and an arch 30 coupled to said coupling means (Item

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28 of element 14; Paragraph 0026, Lines 6 – 10) for fastening paper in said cover [inherent] and an arch including a substantially planar base plate 29 (With respect to Claim 8 this is the second coupling means) having an edge and at least one leg extending upwardly from said base plate (Paragraph 0027; Figure 2, Items 29, 30), said base plate edge being retained under said clamping means flange (Paragraph 0026 – 0027) and said upwardly extending leg being received in said flange recess (paragraph 0028, Lines 6 – 10) and that the arches are coupled to the coupling means (Paragraphs 0026 – 0027).

Gerriet does not disclose wherein the front cover, the back cover and the spine are one plastic piece, and include hinges being co-formed therebetween for connecting the covers with the spine

Anderson discloses wherein the front cover, the back cover and the spine are one plastic piece (Column 2, Lines 33 – 36 [which are injection molded and pertaining to Claim 10]), and include hinges being co-formed therebetween for connecting the covers with the spine (Column 2, Lines 33 – 36; since it is the entire cover which has front, back and spine and it open and closes; there are inherently hinges). Anderson further discloses coupling/clamping structures 60 which are integral with the covers (Column 6, Lines 21 – 27). Therefore it would have been obvious to person having ordinary skill in the art at the time the invention was made to provide a plastic one piece cover having integral coupling and clamping structures in order provide a cover and file of mostly unitary construction.

With respect to the cover and after it has been injection molded, said coupling means being co-injection molded in the file, wherein the front cover, the back cover and the spine are manufactured in one piece and the hinges being co-formed; even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process. In re Thorpe, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985).

In regards to Claim 2, as applied to Claim 1, Gerriet modified by Anderson further discloses wherein the coupling means further comprise guide means for sliding in the base plate edge of the arch (Paragraph 0026, Lines 1 – 3), clamping means being provided to fix the arch in the guide means when the arch has been slid in completely (Paragraph 0026, Lines 6 – 8; Paragraph 0027).

In regards to Claim 3, as applied to Claim 1, wherein the arch is co-injection molded in the file with the coupling means as an insert; even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process. In re Thorpe, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985). Furthermore, Gerriet modified by Anderson discloses wherein a

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an arch 52 is co-injection molded with a coupling means (Column 3, Lines 21 – 25) as an insert.

In regards to Claim 4, as applied to Claim 1, Gerriet modified by Anderson further discloses wherein at least a part of the spine is provided on the outside surface that can be written on, which surface is provided by labeling (It is well known in the art that polypropylene [Column 2, Lines 33 – 36; Anderson] can be written on considering it is used to make containers able to take writing and labeling).

In regards to Claim 5 and 7, as applied to Claims 4 and 1, with respect wherein said surface and texture is provided by in-mold labeling; even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process. In re Thorpe, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985). Furthermore, considering that the surface of Anderson has a groove 86 and hinges and various surfaces (Figure 2) the cover is therefore textured.

2. Claims 5, 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gerriet in view of Anderson and Miller et al. (Miller; U.S. 6,773, 653 B2).

In regards to Claim 5, as applied to Claim 4, Gerriet modified by Anderson does not disclose wherein said surface is provided by in-mold labeling.

Miller discloses a method of in mold labeling a plastic article (Claim 1). Therefore it would have been obvious to a person having ordinary skill in the art at the time the

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invention was made to label Anderson's file with Miller's method in order to provide a file with a label having tamper resistant features (Column 1, Lines 19 – 24; 38 – 41).

In regards to Claim 7, as applied to Claim 1, Gerriet modified Anderson does not disclose wherein at least the outsides of the covers are at least largely provided with texture by in-mold labeling.

Miller discloses a method of in mold labeling a plastic article (Claim 1). Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to label Anderson's file with Miller's method in order to provide a file with a label having tamper resistant features (Column 1, Lines 19 – 24; 38 – 41).

Furthermore, the covers can be extensively labeled and therefore provided with a texture by in-mold labeling.

3. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson in view of Condon et al. (Condon; U.S. 2,570,323).

In regards to Claim 6, as applied to Claim 1, Gerriet modified by Anderson does not disclose wherein the covers and/or the spine are provided with stiffening ribs.

Condon discloses stiffening ribs 49 on the inside surface of a cover 43 (Column 4, Lines 20 – 23). Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to put Condon's ribs on the inside of Gerriet modified by Anderson's covers in order to impart a high rigidity to the covers (Column 4, Line 24; Condon).

### ***Response to Arguments***

Applicant's arguments with respect to claims 1,8 and 9 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments filed July 20, 2007 have been fully considered but they are not persuasive with respect to Claims 4, 5, and 7.

In regards to Claim 4, Miller was not used in the rejection.

In regards to Claims 5 and 7 with respect to the use of Miller, the Examiner is aware that the Applicant is not presenting an element with anti-temper means, however, if the examiner merely only looked for the present features it would be impermissible hindsight. Furthermore Miller is merely being used for the method of different molding, in a product claim, and Miller provides a further feature of anti temper means.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the



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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pradeep C. Battula whose telephone number is 571-272-2142. The examiner can normally be reached on Mon. - Thurs. & alternating Fri. 7:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica S. Carter can be reached on 571-272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PCB  
Patent Examiner  
September 25, 2007

  
MONICA CARTER  
SUPERVISORY PATENT EXAMINER